

part, subject to subpart C of part 260 of this chapter and section 415 of the Act.

[64 FR 17884, Apr. 12, 1999. Redesignated at 71 FR 37479, June 29, 2006]

## **PART 262—ACCOUNTABILITY PROVISIONS—GENERAL**

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AUTHORITY: 31 U.S.C. 7501 *et seq.*; 42 U.S.C. 606, 609, and 610; Pub. L. 109-171.

SOURCE: 64 FR 17890, Apr. 12, 1999, unless otherwise noted.

### **§ 262.0 What definitions apply to this part?**

The general TANF definitions at §§ 260.30 through 260.33 of this chapter apply to this part.

### **§ 262.1 What penalties apply to States?**

(a) We will assess fiscal penalties against States under circumstances defined in parts 261 through 265 of this chapter. The penalties are:

(1) A penalty of the amount by which a State misused its TANF funds;

(2) An additional penalty of five percent of the adjusted SFAG if such misuse was intentional;

(3) A penalty of four percent of the adjusted SFAG for each quarter a State fails to submit an accurate, complete and timely required report;

(4) A penalty of up to 21 percent of the adjusted SFAG for failure to satisfy the minimum participation rates;

(5) A penalty of no more than two percent of the adjusted SFAG for failure to participate in IEVS;

(6) A penalty of no more than five percent of the adjusted SFAG for failure to enforce penalties on recipients who are not cooperating with the State

Child Support Enforcement (IV-D) agency;

(7) A penalty equal to the outstanding loan amount, plus interest, for failure to repay a Federal loan;

(8) A penalty equal to the amount by which a State fails to meet its basic MOE requirement;

(9) A penalty of five percent of the adjusted SFAG for failure to comply with the five-year limit on Federal assistance;

(10) A penalty equal to the amount of contingency funds that were received but were not remitted for a fiscal year, if the State fails to maintain 100 percent of historic State expenditures in that fiscal year;

(11) A penalty of no more than five percent of the adjusted SFAG for the failure to maintain assistance to an adult single custodial parent who cannot obtain child care for a child under age six;

(12) A penalty of no more than two percent of the adjusted SFAG plus the amount a State has failed to expend of its own funds to replace the reduction to its SFAG due to the assessment of penalties in this section in the immediately succeeding fiscal year;

(13) A penalty equal to the amount of the State's Welfare-to-Work formula grant for failure to meet its basic MOE requirement during a year in which it receives the formula grant;

(14) A penalty of not less than one percent and not more than five percent of the adjusted SFAG for failure to impose penalties properly against individuals who refuse to engage in required work in accordance with section 407 of the Act; and

(15) A penalty of not less than one percent and not more than five percent of the adjusted SFAG for failure to establish or comply with work participation verification procedures.

(b) In the event of multiple penalties for a fiscal year, we will add all applicable penalty percentages together. We will then assess the penalty amount against the adjusted SFAG that would have been payable to the State if we had assessed no penalties. As a final step, we will subtract other (fixed) penalty amounts from the adjusted SFAG.

(c)(1) We will take the penalties specified in paragraphs (a)(1), (a)(2), and

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(a)(7) of this section by reducing the SFAG payable for the quarter that immediately follows our final decision.

(2) We will take the penalties specified in paragraphs (a)(3), (a)(4), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), and (a)(15) of this section by reducing the SFAG payable for the fiscal year that immediately follows our final decision.

(d) When imposing the penalties in paragraph (a) of this section, the total reduction in an affected State's quarterly SFAG amount must not exceed 25 percent. If this 25-percent limit prevents the recovery of the full penalty amount imposed on a State during a quarter or a fiscal year, as appropriate, we will apply the remaining amount of the penalty to the SFAG payable for the immediately succeeding quarter until we recover the full penalty amount.

(e)(1) In the immediately succeeding fiscal year, a State must expend additional State funds to replace any reduction in the SFAG resulting from penalties.

(2) The State must document compliance with this replacement provision on its TANF Financial Report (or Territorial Financial Report).

[64 FR 17890, Apr. 12, 1999, as amended at 71 FR 37480, June 29, 2006]

## § 262.2 When do the TANF penalty provisions apply?

(a) A State will be subject to the penalties specified in § 262.1(a)(1), (2), (7), (8), (9), (10), (11), (12), (13), and (14) for conduct occurring on and after the first day the State operates the TANF program.

(b) A State will be subject to the penalties specified in § 262.1(a)(3), (4), (5), and (6) for conduct occurring on and after July 1, 1997, or the date that is six months after the first day the State operates the TANF program, whichever is later.

(c) For the time period prior to October 1, 1999, we will assess State conduct as specified in § 260.40(b) of this chapter.

(d) The penalty specified in § 262.1(a)(15) takes effect on October 1, 2006, for failure to establish work participation verification procedures and

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on October 1, 2007, for failure to comply with those procedures.

[64 FR 17890, Apr. 12, 1999, as amended at 71 FR 37480, June 29, 2006]

## § 262.3 How will we determine if a State is subject to a penalty?

(a)(1) We will use the single audit under OMB Circular A–133, in conjunction with other reviews, audits, and data sources, as appropriate, to determine if a State is subject to a penalty for misusing Federal TANF funds (§ 263.10 of this chapter), intentionally misusing Federal TANF funds (§ 263.12 of this chapter), failing to participate in IEVS (§ 264.10 of this chapter), failing to comply with paternity establishment and child support requirements (§ 264.31 of this chapter), failing to maintain assistance to an adult single custodial parent who cannot obtain child care for a child under 6 (§ 261.57 of this chapter), failing to reduce assistance to a recipient who refuses without good cause to work (§ 261.54 of this chapter), and after October 1, 2007 failing to comply with work participation verification procedures (§ 261.64 of this chapter).

(2) We will also use the single audit as a secondary method of determining if a State is subject to other penalties if an audit detects lack of compliance in other penalty areas.

(b)(1) We will use the TANF Data Report required under part 265 of this chapter to determine if a State failed to meet participation rates (§§ 261.21 and 261.23 of this chapter) or failed to comply with the five-year limit on Federal assistance (§ 264.1 of this chapter).

(2) Data in these reports are subject to our verification in accordance with § 265.7 of this chapter.

(c)(1) We will use the TANF Financial Report (or, as applicable, the Territorial Financial Report) as the primary method for determining if a State has failed to meet the basic MOE requirement (§ 263.8 of this chapter), meet the Contingency Fund MOE requirement (§ 264.76 of this chapter), or replace SFAG reductions with State-only funds (§ 264.50 of this chapter).

(2) Data in these reports are subject to our verification in accordance with § 265.7 of this chapter.